

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ASSETS RECOVERY 24, LLC,

Plaintiff,

-against-

**ORDER ADOPTING REPORT &
RECOMMENDATION**
14-CV-3191 (KAM) (CLP)

YVETTE ALLRICH;
MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.;
NEW YORK CITY PARKING VIOLATIONS
BUREAU;
NEW YORK CITY ENVIRONMENTAL CONTROL
BOARD; and
NEW YORK CITY TRANSIT ADJUDICATION
BUREAU,

Defendants.

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MATSUMOTO, United States District Judge:

On May 22, 2014, plaintiff Assets Recovery 24, LLC ("plaintiff") commenced this action against Yvette Allrich ("Allrich"), Mortgage Electronic Registration Systems, Inc. ("MERS") as nominee for Act Lending Corporation d/b/a Act Mortgage Capital, the New York City Parking Violations Bureau ("NYCPVB"), the New York City Environmental Control Board ("NYCECB"), the New York City Transit Adjudication Bureau ("NYCTAB") (collectively, the New York City entities"), and 12 John Doe defendants (collectively, "defendants"). By June 16, 2014, all defendants had been served with the summons and complaint. (ECF Nos. 5-10.) Plaintiff seeks to foreclose on a mortgage encumbering the property

located at 135-05 227th Street, Laurelton, New York 11413 (the "Property").

None of the defendants has filed any submission or otherwise appeared in this action. On September 10, 2014, plaintiff requested a certificate of default, which the clerk of court entered on October 7, 2014. (ECF No. 11; 10/7/14 docket entry.) On December 16, 2014, plaintiff moved for a default judgment against defendants. (ECF No. 13.) Although the motion for a default judgment was later denied without prejudice for reasons not relevant here, plaintiff renewed the motion on July 6, 2015, attaching a memorandum of law, a declaration, and a number of exhibits. (ECF Nos. 14-19.) The renewed motion for default judgment was referred to Magistrate Judge Cheryl L. Pollak, who issued the report and recommendation now under review by this court on February 2, 2016. (ECF No. 27, Report and Recommendation ("R&R").)

In her Report and Recommendation, which was issued after a damages inquest (ECF No. 23), Judge Pollak recommended that the court: (1) grant plaintiff's motion for default judgment against Allrich (but not against the three New York City entities or MERS); (2) amend the caption of the complaint to remove the John Doe defendants; (3) appoint a referee to sell the premises; (4) award costs in the amount of \$435; and (5) award damages in the amount of \$598,444.34 (for a total award of \$598,879.34). (R&R at 2, 7-8 nn.6 & 8, 13-14.)

The Report and Recommendation notified defendants of the right to file written objections within 14 days of receipt of the report. (R&R at 14.) The period for filing objections has now expired, and no objections to Judge Pollak's R&R have been filed.

In reviewing a Report and Recommendation, the district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Where no objection to the Report and Recommendation has been filed, the district court "need only satisfy itself that there is no clear error on the face of the record." *Urena v. New York*, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Upon careful consideration of the record and Judge Pollak's thorough and well-reasoned Report and Recommendation, the court finds no clear error and hereby affirms and adopts the Report and Recommendation in its entirety (with a single exception discussed below in footnote 1) as the opinion of the court.

The court therefore grants plaintiff's motion for default judgment against Allrich, entitling plaintiff to foreclose on the property; amends the caption of the complaint to remove the John Doe defendants; orders the appointment of a referee to sell the premises; awards costs in the amount of \$435; and awards damages in the amount of \$603,141.33¹ (for a total award of \$603,576.33).

SO ORDERED.

Dated: Brooklyn, New York
March 31, 2016

_____/s/_____
KIYO A. MATSUMOTO
United States District Judge

¹ The \$603,141.33 award includes two additional numbers not contemplated by the Report and Recommendation. First, the court has added \$4,617.38 in prejudgment interest that has accrued since the filing of the Report and Recommendation. On the date the Report and Recommendation was issued, prejudgment interest totaled \$172,682.22. (R&R at 12-13.) Adopting Judge Pollak's calculations, the court multiplies the leap year daily interest (\$79.61) by the number of days that have passed since the issuance of the report and recommendation (58 days) to reach the conclusion that \$4,617.38 in prejudgment interest has accrued since the issuance of the Report and Recommendation on February 2, 2016. Second, the court has added \$79.61 (the interest rate during a leap year) to the damages award to account for the fact that the 2012 leap year had 366 days, not 365 days.